

ENTERED

August 07, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONLADDY CURTIS VALENTINE, *et al*,

Plaintiffs,

VS.

BRYAN COLLIER, *et al*,

Defendants.

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CIVIL ACTION NO. 4:20-CV-1115

ORDER

On August 6, 2020, the Court issued an Order (the “Order”) (Doc. No. 297) clarifying and denying substantive reconsideration of its prior Order to Compel (Doc. No. 284). The Order required that:

by **3:00 p.m. on August 7, 2020**, Defendants must produce all text messages from February 15, 2020 to the present between any TDCJ employees on the state-issued mobile phones of Paul Wilder, Bryan Collier, Oscar Mendoza, Robert Herrera, and Lorie Davis. Text messages to and from Defendants’ attorneys or to and from non-TDCJ-employee family members are to be excluded. These text messages will be produced to Plaintiffs under seal. Should Defendants deem that a message is both irrelevant and sensitive, Defendants may submit those messages to the Court for *in camera* review by Magistrate Judge Dena Hanovice Palermo to determine whether they may properly be withheld from production.

(Doc. No. 297 at 3–4) (emphasis added).

Defendants have now filed an Emergency Motion for Extension of Time to Comply with the Order. (Doc. No. 299). Defendants claim that they are unable to comply with the Court’s stated deadline because they “do not have time to conduct both a privilege review and family contact review for all of the texts for the five custodians.” (Doc. No. 299 at 2). Defendants accordingly request an extension of seven days to complete the required production. *Id.*

In considering Defendants' motion, the Court makes the following observations. Defendants claim that they have already conducted a privilege review of all text messages on the phones at issue in their efforts to comply with this Court's Order to Compel. *See, e.g.*, (Doc. No. 289 at 5); TT18-6 (rough draft). Defendants informed the Court at the hearing on August 6, 2020, that they have produced over 16,000 text messages to Plaintiffs. Moreover, Defendants have previously demonstrated their ability to review expeditiously. After suggesting to the Court at a hearing last Tuesday that Defendants may need until the next week to complete their review, if not longer, Defendants completed their review and produced messages to Plaintiffs the next day.

The Court is cognizant of the time constraints, and will accordingly provide Defendants with a three-day extension until 5:00 p.m. on August 10, 2020. The Court is persuaded that, in light of Defendants' past efforts and the decreased volume of texts to review given the prior production to Plaintiffs, this extension will provide Defendants sufficient time to comply with the Court's Order.

The Court accordingly **ORDERS** the following. Defendants must complete the required production under the Court's Order (Doc. No. 297) no later than 5:00 p.m. on August 10, 2020. The Court will, accordingly, extend the deadline for submission of post-trial findings of fact and conclusions of law until 5:00 p.m. on August 14, 2020. The Court will entertain further extension of the deadline for post-trial findings of fact and conclusions of law at the parties' request should unforeseen circumstances arise.

IT IS SO ORDERED.

SIGNED at Houston, Texas on this the 7th day of August, 2020.

A handwritten signature in black ink, appearing to read "Keith P. Ellison". The signature is written in a cursive style with a horizontal line underneath it.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE